

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF NORTH CAROLINA
WESTERN DIVISION

No. 5:05-CR-195-H

No. 5:16-CV-428-H

FONTELLE RICARDO GROVES,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

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ORDER

This matter is before the court on petitioner's motions for permission to file a successive petition under 28 U.S.C. § 2255, [D.E. #72], for leave to file a memorandum in support of his motion to vacate, [D.E. #73], to vacate under 28 U.S.C. § 2255, [D.E. #74], and for appointment of counsel, [D.E. #75].

Petitioner has not previously filed a motion to vacate under 28 U.S.C. § 2255; therefore, his motion for permission to file a successive petition, [D.E. #72], is DENIED AS MOOT. Petitioner's motion for leave to file a memorandum in support of his motion to vacate, [D.E. #73], is GRANTED, and petitioner shall have **thirty (30) days** to file a supplemental brief in support of his motion to vacate under 28 U.S.C. § 2255.

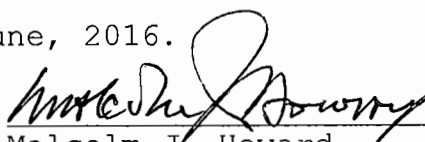
Having examined petitioner's motion to vacate under 28 U.S.C. § 2255, [D.E. #74], pursuant to Rule 4(b) of the Rules Governing § 2255 Proceedings, the United States Attorney is DIRECTED to file an answer pursuant to Rule 5 or to make such

other response as appropriate to petitioner's motion to vacate under 28 U.S.C. § 2255 within **forty (40) days** of either the date petitioner files his supplemental brief in support or the expiration of his time to file a supplemental brief in support, whichever is earlier.

Finally, Johnson counsel was appointed for petitioner pursuant to Standing Order 15-SO-2. Ms. Sherri Alspaugh of the Federal Public Defender's Office entered a notice of appearance under the Standing Order on June 22, 2016 and has since filed a motion to withdraw which remains pending before this court. Therefore, petitioner's motion for appointment of Johnson counsel, [D.E. #75], is DENIED AS MOOT.

The court notes general appearances of counsel filed by Mr. Benjamin Beaton and Ms. Karen Popp. See [D.E. #69 and #70]. The clerk is directed to serve a copy of this order on petitioner in addition to his counsels of record.

This 30th day of June, 2016.



Malcolm J. Howard
Senior United States District Judge

At Greenville, NC
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